

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judiciary Department

Notification

LD/2645/75

The following Ordinance which was recently promulgated by the President of India on 15th July, 1975 is hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 24th July, 1975.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 15th July, 1975

Asadha 24, 1897 (Saka)

THE MAINTENANCE OF INTERNAL SECURITY (SECOND AMENDMENT) ORDINANCE, 1975

No. 7 of 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance further to amend the Maintenance of Internal Security Act, 1971.

Whereas a grave emergency exists whereby the security of India is threatened by external aggression and internal disturbance;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Consti-

tution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Maintenance of Internal Security (Second Amendment) Ordinance, 1975.

(2) Section 6 shall be deemed to have come into force on the 25th day of June, 1975 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 29th day of June, 1975.

2. In section 4 of the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the Principal Act), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

3. In section 7 of the principal Act,—

(a) in clause (a) of sub-section (1), for the words and figures "Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of section 87, 88 and 89 of the Code of Criminal Procedure, 1898", the words, figures and brackets "Metropolitan Magistrate or a Judicial Magistrate of the First class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of section 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973" shall be substituted.

(b) in sub-section (2), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

4. In section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

(3A) If the appropriate Government has reasons to believe that any person who has failed to surrender himself in the manner specified in sub-section (3) has absconded or is concealing himself, that Government may make a report in writing of the fact to a Metropolitan Magistrate

or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides and thereupon the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply in relation to such person as they apply in relation to a person who has absconded or is concealing himself so that a warrant issued by the Magistrate cannot be executed."

5. In section 16A of the principal Act, inserted therein by the Maintenance of Internal Security (Amendment) Ordinance, 1975, —

(a) in sub-section (2), for the words "every person against whom an order of detention was made", the words and brackets "every person (including a foreigner) against whom an order of detention was made under this Act" shall be substituted;

(b) in sub-section (3), after the words "an order of detention under this Act against any person", the brackets and words "(including a foreigner)" shall be inserted;

(c) for sub-section (6) and (7), the following sub-sections shall be substituted, namely: —

'(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a person the review of whose case is pending under that sub-section or in respect of whom a declaration has been made under that sub-section, —

(i) sections 8 to 12 shall not apply; and

(ii) section 13 shall apply to the modification that the words and figures "which has been confirmed under section 12" shall be omitted.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (3) apply, being a person in respect of

whom a declaration has been made under that sub-section, —

(i) section 3 shall apply subject to the modification that for sub-sections (3) and (4) thereof, the following sub-section shall be substituted, namely: —

"(3) When any order of detention is made by a State Government or by an officer subordinate to it, the State Government shall, within twenty days, forward to the Central Government a report in respect of the order.";

(ii) sections 8 to 12 shall not apply; and

(iii) section 13 shall apply subject to the modification that the words and figures "which has been confirmed under section 12" shall be omitted.'

6. Section 18 of the principal Act shall be re-numbered as section 19 thereof and before that section as so re-numbered, the following section shall be inserted, namely: —

"18 No person (including a foreigner) detained under this Act shall have any right to personal liberty by virtue of natural law or common law, if any."

7. Anything done or any action taken under the principal Act, as amended by the Maintenance of Internal Security (Amendment) Ordinance, 1975, shall be deemed to have been done or taken under the principal Act as amended by that Ordinance and this Ordinance.

FAKHRUDDIN ALI-AHMED

President.

K. K. SUNDARAM

Secy. to the Govt. of India.